1	KELLER BENVENUTTI KIM LLP TOBIAS S. KELLER (SBN 151445)	
2	tkeller@kbkllp.com DARA L. SILVEIRA (SBN274923)	
3	dsilveira@kbkllp.com	
	650 California Street, Suite 1900 San Francisco, California 94108	
4	Tel.: (415) 364-6793	
5	Fax.: (650) 636-9251	
6	GOODWIN PROCTER LLP BRETT M. SCHUMAN (SBN 189247)	
7	bschuman@goodwinlaw.com RACHEL M. WALSH (SBN 250568) rwalsh@goodwinlaw.com	
8	Three Embarcadero Center	
9	San Francisco, California 94111 Tel.: (415) 733-6000	
10	Fax.: (415) 677-9041	
11	HONG-AN VU (SBN 266268) hvu@goodwinlaw.com	
12	601 S. Figueroa Street, 41st Floor Los Angeles, California 90017 Tel.: (213) 426-2500	
13	Fax: (213) 623-1673	
14	Attorneys for Plaintiff and Debtor and Debtor in Possession Anthony S. Levandowski	
15	HARTED CTATECT	A NIZDUBTOV COURT
16	UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF CALIFORNIA	
17	SAN FRANCISCO DIVISION	
18	In re:	Bankruptcy Case No. 20-30242 (HLB)
19	ANTHONY S. LEVANDOWSKI,	Chapter 11
20	Debtor.	Hon. Hannah L. Blumenstiel Adv. Pro. No. 20-03050 (HLB)
21	ANTHONY S. LEVANDOWSKI, an	MOTION TO REMOVE INCORRECTLY
21	individual,	FILED DOCUMENT (DKT. 194-25);
22	Plaintiff,	MEMORANDUM OF POINTS AND
23	Traintiff,	AUTHORITIES IN SUPPORT THEREOF
24	v.	
	UBER TECHNOLOGIES, INC.	
25	Defendant.	
26		
27		
28		
40		

Case: 20-03050 Doc# 197 Filed: 03/29/21 Entered: 03/29/21 16:26:33 Page 1 of 6

NOTICE OF AND MOTION TO REMOVE INCORRECTLY FILED DOCUMENT

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

Plaintiff Anthony Levandowski respectfully submits this Motion to Remove Incorrectly Filed Document in connection with his Notice of Public Refiling of Documents, filed March 26, 2021. *See* Dkt. 190. Exhibit 66 to the Declaration of Hong-An Vu in Support of Motions for Partial Summary Judgment was inadvertently filed publicly. *See* Dkt. 194-25. Exhibit 66 is Mr. Levandowski's Objections and Responses to Uber's Second Set of Interrogatories, dated February 12, 2021. Exhibit 66 was previously filed provisionally under seal by Mr. Levandowski in his Amended Omnibus Motion to Seal and Google indicated its intent to file a declaration in support of sealing Exhibit 66. *See* Dkts. 168; 126-14. Upon discovering the inadvertent filing, Mr. Levandowski immediately contacted the Court and filed this Motion. *See* Declaration of Hong-An Vu (Mar. 29, 2021), ¶¶ 6–7.

Mr. Levandowski, therefore, requests this Court remove Exhibit 66 (Dkt. 194-25) from the public record pursuant to Bankruptcy Code Title 11 § 107, Rule 9018, and Local Rules 79-5 and 7-11.

15

16

1

2

3

4

5

6

7

8

9

10

11

12

13

14

Dated: March 29, 2021

/s/ Hong-An Vu

GOODWIN PROCTER LLP

BRETT M. SCHUMAN (SBN 189247)

bschuman@goodwinlaw.com

RACHEL M. WALSH (SBN 250568)

rwalsh@goodwinlaw.com
Three Embarcadero Center
San Francisco, California 94111

Tel.: (415) 733-6000

Fax.: (415) 677-9041

HONG-AN VU (SBN 266268)

hvu@goodwinlaw.com

601 S. Figueroa Street, 41st Flr.

Los Angeles, California 90017

Tel.: (213) 426-2500 Fax: (213) 623-1673

KELLER BENVENUTTI KIM LLP

TOBIAS S. KELLER (SBN 151445)

tkeller@kbkllp.com

DARA L. SILVEIRA (SBN274923)

, |

17

18

19 20

21

22

23

24

25

26

27

28

Case: 20-03050 Doc# 197 Filed: 03/29/21 Entered: 03/29/21 16:26:33 Page 2 of 6

dsilveira@kbkllp.com 650 California Street, Suite 1900 San Francisco, California 94108

Tel.: (415) 364-6793 Fax.: (650) 636-9251

Attorneys for Plaintiff and Debtor and Debtor in Possession Anthony S. Levandowski

Case: 20-03050 Doc# 197 Filed: 03/29/21 Entered: 03/29/21 16:26:33 Page 3 of 6

MEMORANDUM OF POINTS AND AUTHORITIES

Anthony Levandowski submits this Motion to Remove Incorrectly Filed Document in connection with his Notice of Public Refiling of Documents, filed March 26, 2021, pursuant to Section 107 of Title 11 of the United States Code (the "Bankruptcy Code"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Civil Local Rules 79-5 and 7-11 (applicable here pursuant to Local Bankruptcy Rule 1001-2(a)), for entry of an order permitting Mr. Levandowski to remove Exhibit 66 (Dkt. 194-25) to the Notice of Public Refiling of Documents (Dkt. 190). As support for the motion, Mr. Levandowski respectfully submits the Declaration of Hong-An Vu, dated March 29, 2021, attached as Exhibit A to this Motion.

I. BACKGROUND

On March 25, 2021, Mr. Levandowski filed an Amended Omnibus Motion to File Under Seal certain exhibits. Dkt. 168; Declaration of Hong-An Vu ("Vu Decl."), ¶ 3. One of those exhibits, Exhibit 66, was provisionally filed under seal at Google LLC's request because it contains highly confidential information. Dkt. 168; *see also* Dkt. 126-14; Vu Decl., ¶ 4.

On March 26, 2021, Mr. Levandowski inadvertently filed Exhibit 66 (Dkt. 194-25) in connection with his Notice of Public Refiling of Documents (Dkt 190). *See* Vu Decl., ¶ 5.

On March 29, 2021 at around 10:00 a.m., Mr. Levandowski's counsel received a phone call from Google's counsel indicating that Exhibit 66 had been inadvertently filed. *See* Vu Decl., \P 6. Mr. Levandowski's counsel immediately contacted the Court clerk to resolve the issue and began preparing the Motion to Remove Incorrectly Filed Document. *Id.* \P 7.

Mr. Levandowski respectfully requests that this Court remove inadvertently publicly filed Exhibit 66.

II. BASIS FOR RELIEF REQUESTED

The Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Local Rules authorize the Court to restrict disclosure of confidential information if such restrictions protect the parties from potential harm. Bankruptcy Code § 107(b) provides that upon a parties' request to seal or redact information, "the bankruptcy court *shall*" issue any order to "protect an entity with respect to a trade secret or *confidential* research, development, or *commercial information*." 11 U.S.C. § 107(b)

1 | (1 | 2 | r | 3 | c | 4 | t | 5 | t | 6 | F

7

9

8

11

10

12 13

14 15

16

17

18 19

20

2122

23

24

25

26

27

28

(emphasis added). The Bankruptcy Rules similarly permit the Court to issue any orders that "justice requires," including orders "to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information." Fed. R. Bankr. P. 9018. In addition, the Bankruptcy Local Rules provide that "[n]o document may be filed under seal . . . except pursuant to a Court order that authorizes the sealing of the particular document or portions thereof." Civil Local Rule 79-5 (which applies to this proceeding pursuant to Bankruptcy Local Rule 1001-2(a)).

Exhibit 66 is Mr. Levandowski's Objections and Responses to Uber's Second Set of Interrogatories, dated February 12, 2021. Exhibit 66 was previously filed provisionally under seal by Mr. Levandowski in his Amended Omnibus Motion to Seal. *See* Dkt. 168. There, Mr. Levandowski asked this court provisionally seal Exhibit 66 at Google's request because it "contains details of the Chauffeur Bonus Plan, which Google considers to be highly confidential commercial information." Dkt. 168 at 4. Mr. Levandowski indicated that Google intended to file a declaration supporting the sealing of that exhibit. *Id.* Google's counsel reiterated its intent to file a declaration in support of sealing Exhibit 66 on a phone call on March 29. *See* Vu Decl., ¶ 6. Upon Google's notice of the inadvertent filing, Mr. Levandowski immediately contacted the Court and filed this Motion. *See id.*, ¶¶ 6–7.

III. CONCLUSION

For the foregoing reasons, Mr. Levandowski respectfully requests that the Court exercise its authority and remove inadvertently, publicly filed Exhibit 66 (Dkt. 194-25).

Dated: March 29, 2021 Respectfully submitted,

By: <u>/s/ Hong-An Vu</u> BRETT M. SCH

BRETT M. SCHUMAN (SBN 189247) bschuman@goodwinlaw.com RACHEL M. WALSH (SBN 250568)

rwalsh@goodwinlaw.com GOODWIN PROCTER LLP

Three Embarcadero Center San Francisco, California 94111

Tel.: (415) 733-6000 Fax.: (415) 677-9041

HONG-AN VU (SBN 266268) hvu@goodwinlaw.com

Case: 20-03050 Doc# 197 Filed: 03/29/21 Entered: 03/29/21 16:26:33 Page 5 of 6

601 S. Figueroa Street, 41st Flr. Los Angeles, California 90017 Tel.: (213) 426-2500 Fax: (213) 623-1673 TOBIAS S. KELLER (SBN 151445) tkeller@kbkllp.com DARA L. SILVEIRA (SBN274923) dsilveira@kbkllp.com

KELLER BENVENUTTI KIM LLP 650 California Street, Suite 1900 San Francisco, California 94108 Tel.: (415) 364-6793 Fax.: (650) 636-9251 Attorneys for Plaintiff and Debtor and Debtor in Possession Anthony S. Levandowski

Case: 20-03050 Doc# 197 Filed: 03/29/21 Entered: 03/29/21 16:26:33 Page 6 of 6